



2026:DHC:268-DB



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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
% *Date of Decision : 12.01.2026*

+ **W.P.(C) 14302/2022 & CM APPL. 43659/2022**

CPL. DEEPA RAM

.....Petitioner

Through: Mr. Ankur Chhibber, Mr. Anshuman Mehra, Mr. Arjun Panwar and Mr. Nikunj Arora, Advs.

versus

UNION OF INDIA AND ORS

.....Respondents

Through: Mr. Rajesh Gogna, Senior Panel Counsel for UOI, Ms Rebina Rai, Mr. Shivam Tiwari and Ms. Punita Jha, Advs. for R1 to R3.
Mr. Rajat Arora, Mr. Niraj Kumar and Mr. Sourabh Mahla, Advs. for R4.

CORAM:

HON'BLE MR. JUSTICE V. KAMESWAR RAO

HON'BLE MS. JUSTICE MANMEET PRITAM SINGH ARORA

V. KAMESWAR RAO, J. (ORAL)

1. The challenge in this petition is against Clause 6 of Air Force Order No.33/2017 (AFO) on ground that, it categorises similarly situated personnel by two different yardsticks i.e., by discharging only those airmen who have been selected for a civil post advertised by the Union Public Service Commission (UPSC) or State Public Service Commissions (State PSCs) and have 7 years of services. The petitioner seeks to quash the remarks made by the Adjutant and the Commanding Officer, on his application dated 06.08.2022 which mentions that the individual does not meet the criteria for issuance of No Objection Certificate (NOC) as per AFO 33/2017, thus he is not eligible for being recommended. The petitioner seeks the following



prayers in this petition:-

- (i). *Issue a Writ of Certiorari for quashing of or setting aside of Clause 6 of AFO No.33/2017 on ground of being arbitrary, unreasonable and discriminatory to the extent it categorizes similarly situated personnel by two different yardsticks by discharging only those airmen who have been selected for a civil post advertised by Union Public Service Commission or State Public Commission and for quashing of the remarks endorsed by the Adjutant and Commanding Officer, on to the application dated 06.08.2022 which mentioned that the individual does not meet the criteria for issuance of NOC as per AFO 33/2017, thus his case is 'Not Recommended'; and*
- (ii). *Issue a Writ of Mandamus directing the Respondents/Air Force to issue NOC and discharge the Petitioner from the post of Corporal so as to allow him to join the post for which he has been selected for, i.e. Rajbhasha Adhikari and also grant the same relief as has been granted by this Hon'ble Court in catena of judgments on the issue and affirmed by the Hon'ble Apex Court; and*

2. The facts as noted are, the petitioner after completing 10+2, applied for the post of Aircraftsman and was enrolled on 26.09.2012 in the Indian Air Force and was posted to 9th Squadron Gwalior, after undergoing basic training and trade training of structure fitter. On 01.10.2014, the petitioner was promoted to the post of Leading Aircraftsman. Thereafter on 01.10.2017, he was promoted to the post of Corporal.

3. On 02.11.2021, the Institute of Banking Personnel Selection (IBPS) issued an advertisement inviting applications from eligible candidates for filling up posts of Specialist Officers in the participating banks. On 12.11.2021, the petitioner had applied online for the permission from the Air Force through online/website, however, he could not proceed due to the fact that he did not possess the requisite skill, i.e. skill level 'A'. Therefore, he



sought offline permission from the Air Force to apply for the said advertisement.

4. On 16.11.2021, the Air Force communicated a note on the petitioner's application directing him to apply online. The petitioner tried to seek online permission, but due to the lack of mandatory skill for seeking NOC, he could not proceed ahead. The petitioner therefore, applied to the post of '*Rajbhasha Adhikari*' without obtaining the NOC. On 26.12.2021, IBPS issued a call letter to the petitioner to appear for the Preliminary Examination. On 19.01.2022, the petitioner cleared the Preliminary Examination and was shortlisted for online Mains Examination. On 31.01.2022, the petitioner was issued with the Call Letter to appear for the Mains Examination. On 15.02.2022, the petitioner appeared and cleared the Mains Examination and was shortlisted for interview. On 06.03.2022, the petitioner cleared the Interview and secured 67.20/100 marks.

5. On 24.05.2022, the petitioner was issued an Offer Letter with his selected post being Probationary Specialist Officer (JMG Scale-I) at Canara Bank with a direction to report for pre-recruitment formalities before 13.06.2022. On 29.05.2022, the petitioner approached Canara Bank / respondent No.4 and filed an application seeking six months extension to join his post. On 10.07.2022, the petitioner received his appointment letter issued by the respondent no.4 to join his selected post at Canara Bank. On 03.08.2022, the petitioner again approached the respondent no.4/ Canara Bank seeking reply to his application dated 29.05.2022, the respondent no.4 in reply to his said application, granted extension till 14.11.2022 for completion of pre- recruitment formalities, failing which, his appointment shall be cancelled.



6. In the meanwhile, on 06.08.2022, the petitioner filed an application seeking NOC from the Air Force as well as discharge from the service on the ground of his selection on a civil post. On 07.08.2022, the Section Commander after scrutinising the application, recommended and forwarded the same. On 13.08.2022, the Adjutant and the Commanding Officer held that as the individual does not meet the criteria for issuance of NOC as per AFO 33/2017, he is not recommended for NOC. Aggrieved by the said order, the petitioner filled the present petition.

THE CASE OF THE PETITIONER

7. Mr. Ankur Chhibber, learned counsel for the petitioner states that the petitioner has completed more than 10 years of service, and at this young age, he seeks better employment in his life for which he applied and was subsequently selected for the post of *Rajbhasha Adhikari* at Canara Bank, but with the AFO No. 33/2017, there are only two categories of personnel who are eligible under the said AFO; (I) who clears any exam conducted by Public Service Commissions and (II) who are selected to a civil post in any sector, provided such candidate has completed 19 years of service.

8. He submits that the petitioner should fall under Category I of the impugned AFO, but it discriminates the petitioner with similarly situated personnel sailing on the same boat who have not yet completed 19 years of service even though have been selected for a civil post through an exam conducted by a PSC. He also submits that, a categorisation of similarly situated personnel by the Air Force for discharge from service on two different yardsticks is unlawful and leads to discrimination in violation of Article 14 of the Constitution of India.



9. Mr. Chhibber states that the broad condition as per any AFOs are that the incumbent should have completed 7 years of service of their engagement including training period, in order to be permitted to apply for a civil post. However, on the contrary, the prevailing AFO debars airmen like the petitioner from applying in a standalone civil post without providing an opportunity to seek better employment. Ideally, the AFOs should be beneficial in nature qua the airmen, however, the amendments made in AFO No.33/2017 does not commensurate with the intended objective of AFOs. This issue is no longer *res integra* as the same has been decided by this Court in *W.P.(C) 634/2020* titled *Subhash Chand v. Union of India* and *W.P.(C) 9088/2008* titled *CPL N.K. Jhakar v. Union Of India*, which has been affirmed in *W.P.(C) 3257/2010* titled *Charan Singh Bhanvariya v. Union of India* as well as in *W.P.(C) 1465/2016* titled *Rajeev Ranjan v. Union of India*. The respondents herein have filed an appeal before the Supreme Court in *Rajeev Ranjan (supra)*, which has been dismissed and the order of this Court has been upheld.

10. He submits that the petitioner on fulfilling the criteria had applied online for the permission from the respondents but it could not proceed due to the fact that the petitioner's skill grade being skill level 'B'. He states that, if it is compulsory for every airmen to serve the respondents for an initial term of regular engagement of 20 years in terms of AFI/12/48, the respondents themselves are contradicting their statement with the introduction of every AFO issued from time to time, like AFO 14/2008, which provided permission to airmen to apply for civil posts/services under Central/State government and Public Sector Undertakings in Group A or equivalent posts on completion of 7 years of service with the respondent. AFO 4/2012, provides that, any



airmen who has completed 07 years of regular service is eligible to apply to any Group A post in Central/State Government/Public Sector Undertaking and Govt. of India Undertaking/Corporation. He also submits that the petitioner had undergone 3 months of basic training and 9 months of trade training making a total of just 1 year, instead of 2-3 years in case of other technical cadres. Therefore, the cost spent on other technical cadres is more than what has been spent on the petitioner. Therefore, the petitioner is neither an aircraft technician does his trade have any critical manning level.

11. Mr. Chhibber submits that the respondents have failed to appreciate that the petitioner was fulfilling the eligibility criteria as enumerated in AFO 14/2008 and 4/2012, however, it is only in AFO 33/2017, there is an arbitrary clause seeking skill level 'A' which bars the petitioner for NOC and discharge, even though the same has been struck down by this Court in *Subhash Chand (supra)*. He also submits that, at the time of the petitioner's induction in service, AFO 14/2008 and AFO 4/2012 were in operation which permitted the airmen to apply for any civilian post under State/Central Govt or PSU, on completion of 7 years of service in the force. He contends that, the impugned AFO has arbitrarily debarred the airmen for applying for any post without providing reasons for departure from service.

12. He submits that, in all the previous AFO's the only condition for seeking discharge from service was to serve a minimum period, however, in the impugned AFO, an additional condition i.e. minimum skill grade 'A' along with a minimum service of 7 years was also included. He submits that the impugned AFO is only for such airmen who had cleared a post over and above the requirement of having skill grade 'A' and such an AFO is contrary to the very objective of prevailing policy and defeats the sole purpose of



issuing AFOs.

13. He submits that the impugned AFO categorises the personnel into two categories; either those who clear an exam conducted by the PSCs and those who are selected to a civilian post in any sector provided that such a candidate has completed 19 years of service. The petitioner however, shall fall under Category I of the said AFO but it discriminates the petitioner with the personnel who had completed 19 years of service, but not the ones selected for civilian posts through an exam conducted by PSCs. He also submits that the broad condition as per any AFO with respect to discharge is that the incumbent should have completed 7 years of service of their engagement including training period, in order to apply for the civilian post.

14. He submits that the respondents have failed to appreciate that this Court in *Subhash Chand (supra)*, and *W.P.(C) No.3311/2020* titled *Sonu v. Union of India and Ors.*, has struck down the criteria of having skill level 'A' from the said AFO's eligibility, resulting in removal of the barrier for all those airmen who were not being able to get discharge only on the pretext of meeting the criteria as per AFO 33/2017. Further, in view of the impugned AFO, the respondents are discharging only those airmen who had cleared an examination conducted by the Public Service Commission resulting in discrimination against such airmen who had been selected for a civil post conducted by an independent Central Government institution resulting in a class within a class amongst similarly situated personnel and ultimately leading to violation of Article 14 of the Constitution of India.

15. He submits that, the matters where discharge of airmen is concerned with regard to examinations conducted by the UPSC, State PSCs, SSC or Government of India undertaking or Banks or Central Universities, should be



treated equally without any special privilege given to any person on the basis of any exam. He also stated that the respondents have failed to appreciate that the IBPS exam has been conducted by a competent body and any discrimination based on that perspective is in violation of Article 14 of the Constitution of India, making the respondents' policy unconstitutional in nature.

16. He submits that the post against which the petitioner has been selected or had applied for is equivalent to a Group 'A' post, as the Ministry of Personnel, Public Grievances and Pensions vide its notification dated 02.01.2019 have notified that Junior Management Scale-I of PSBs, PFIs and PSICs will be treated as equivalent to Group 'A' in the Government of India. Had the petitioner applied for such a post while AFO 04/2012 was in force, he might have been discharged from service by now. But, with the impugned AFO coming into picture, the petitioner is aggrieved by the discriminatory treatment.

17. In support of his submissions, Mr. Ankur Chhibber has relied upon the following judgments:

- a. Cpl. Manoranjan Kumar v Union of India and Ors., W.P.(C) No.494/2017;*
- b. Prakash Katiyar v Union of India and Ors, W.P.(C) No.6300/2018;*
- c. Cpl. Asit Kumar v Union of India and Ors., W.P.(C) No.5467/2017;*
- d. Krishna Kant Yadav v Union of India and Ors., W.P.(C) No.8002/2020; and*
- e. Suman Kumar Verma v Union of India & Ors., W.P.(C) 4003/2021;*



THE CASE OF THE RESPONDENTS

18. Mr. Rajesh Gogna, Senior Panel Counsel submits that the writ petition proceeds on the erroneous assumption that, selection to a civil post creates an enforceable or vested right to be discharged from the Armed Forces. The said proposition is contrary to settled constitutional and service jurisprudence governing members of the Armed Forces, who form a distinct class governed by a special statutory and policy framework where discharge from service is regulated by considerations of discipline, operational readiness, and manpower management.

19. According to him, discharge from the Air Force is not a matter of individual choice or entitlement; it is governed by statutory provisions and binding policy instruments issued under the Air Force Act, 1950. The AFO No.33/2017 which is in force and governs the field, confers only a limited privilege upon airmen to seek civil employment prior to completion of the period of regular engagement, subject to strict compliance with the procedure prescribed therein.

20. He submits that, Clauses 9, 11 and 12 of AFO 33/2017 lay down a mandatory and stage-wise mechanism requiring prior permission to apply for a civil post, submission of prescribed undertakings and documents, and application for grant of NOC at the stage contemplated therein. The language of these clauses is clear and unambiguous and does not permit any discretion or relaxation.

21. He submits that the petitioner admittedly participated in the civil selection process without adhering to the mandatory procedure prescribed under AFO 33/2017 and sought NOC and discharge only after being declared



successful. Such conduct is in direct violation of the binding policy applicable uniformly to all airmen and strikes at the discipline and command structure of the Armed Forces. He also submits that, it is well settled that courts exercising jurisdiction under Article 226 of the Constitution do not interfere with defence manpower policies unless the same are shown to be manifestly arbitrary, mala fide or unconstitutional and the petitioner has failed to demonstrate any such infirmity in AFO 33/2017.

22. Mr. Gogna submits that the legal position stands conclusively settled by recent judgment of this Court in *Nakhat Singh v. Union of India & Ors., W.P.(C) 16521/2023*, wherein, it has been categorically held that there is no fundamental or vested right in an airman to seek discharge upon selection to a civil post and that AFO 33/2017 is a sacrosanct policy document binding on all airmen. The Court further held that non-compliance with Clauses 9, 11 and 12 of AFO 33/2017 squarely warrants rejection of NOC and discharge and that medical downgrade or alleged difficulty in online application does not dilute the mandatory nature of the policy.

23. He submits that, in *Sgt. Muralidhar Pakal v. Union of India & Ors., W.P.(C) 7502/2023*, this Court reaffirmed that compliance with Clauses 11 and 12 of AFO 33/2017 is mandatory and not directory. The Court expressly held that even though the condition relating to Skill Grade 'A' has been struck down in earlier judgments, the remaining procedural safeguards under AFO 33/2017 continue to bind airmen and that participation in a civil selection process without following the prescribed procedure disentitles an individual from claiming NOC or discharge as a matter of right.

24. He also submits that Category I of the AFO 33/2027 contemplates only those posts for which recruitment is made by the UPSC or State PSCs. IBPS



being neither of these, the petitioner does not meet this eligibility criteria. He has referred to a judgment of this Court in ***Mukesh Singh Rajpoot v. Union of India, WP(C) 5759/2019*** in support of his submission.

25. He submits that the facts of the present case are squarely covered by the judgments. Much like the petitioners in the said cases, the present petitioner failed to comply with the mandatory requirements of AFO 33/2017 and seeks judicial relaxation of a binding defence policy. Such relief has been unequivocally declined by this Court in the above judgments, which are directly applicable to the present case.

26. Mr. Gogna submits that the interim direction passed by this Court directing respondent No. 4 to keep one post vacant was a purely protective arrangement intended to preserve equities during the pendency of the proceedings and cannot be construed as recognition of any substantive right in favour of the petitioner. It is settled law that interim orders do not confer rights nor can they override binding statutory policy or determine the final outcome of the proceedings.

27. He prays for dismissal of the writ petition.

REASONS AND CONCLUSIONS

28. Having heard the learned counsel for the parties, we note that this petition has been primarily filed challenging the Clause 6 of AFO 33/2017 on the ground that it is arbitrary and discriminatory as it categorises similarly situated personnel by two different yardsticks, i.e., by permitting the discharge of only those airmen who have completed seven years of service and has a minimum skill grade 'A' to apply for civil posts advertised by the UPSC or State PSCs as against those airmen who have completed ten years of service to apply for any civil post in government/PSUs/public sector.



29. To understand the challenge made by the petitioner, it is necessary to reproduce Clause 6 of the said AFO which lays down the eligibility criteria for grant of NOC to airmen for civil posts outside the Air Force as under:

“6. Airmen/NCs(E) of the IAF are eligible to apply for civil posts/services with prior permission from the Competent Air Force Authority. Airmen/NCs(E) including those on deputation shall be eligible for seeking permission to apply for the following category of posts:-

Category	Description of Post	Eligibility Criteria	Competent Authority to Issue NOC	Format of NOC
Category-I	Group A/I and Group B/I Gazetted posts through UPSC and State Public Service Commission only. (Recruitment advertisement must clearly mention the Group of the Post)	(a) Airmen with minimum Skill Grade A and seven years of service. (b) NCs(E) irrespective of length of service.	AOC, AFRO	Appendix A
Category-II	Any civil post in Govt/ PSU/Private Sector.	Airmen in the last year of residual service prior to expiry of their initial Regular Engagement (RE)/Extended RE provided they have submitted unwillingness/denied further extension of service.	AOC/Sm Cdr/CO*	Appendix B

30. There is no dispute that Clause 6 stipulates two categories of airmen who can seek NOC for applying civil post with the prior permission from the competent Air Force Authority. Category I confines to those airmen with minimum skill grade ‘A’, having seven years of service. Category II confines to those airmen in the last year of residual service prior to expiry of their initial regular engagement.

31. The case of the petitioner as contended by Mr. Chhibber is that the petitioner belongs to Category I. It may be stated here that on the date of the application, the petitioner was an airman with minimum skill grade ‘B’ and having more than seven years of service. It is undisputed that the petitioner had applied for a post in Canara Bank, with the selection process undertaken



by IBPS.

32. If that be so, the petitioner did not have the prescribed eligibility under Category I for the following reasons:

- a. He did not have the minimum skill grade 'A'.
- b. The appointment to the post for which he had applied was not through UPSC or State PSCs.

33. It is the case of the petitioner that he made an attempt to apply for NOC online but was not successful, pursuant to which he preferred an application offline which was replied to by the respondent calling upon the petitioner to apply online, which he was already unable to do, as he did not have the qualification of skill grade 'A'.

34. Be that as it may, the petitioner did not possess NOC from the competent Air Force Authority for applying to the post in the bank. Still he appeared in the examination and was successful for appointment to the post of Specialist Officer. Having been successful in the recruitment process, Canara Bank has offered an appointment to the petitioner, pursuant where to, the petitioner preferred another application, which was considered and he was found to be ineligible for being granted NOC/permission to join the civil post.

35. It may be stated here that the stipulation under Category I that only the airmen with minimum skill grade 'A' shall be eligible for grant of NOC has been considered by a Coordinate Bench of this Court in *Subhash Chand (supra)* and *Sonu (supra)* wherein this Court has struck down the prescription of minimum skill grade 'A' as an eligibility criteria. It follows that even an airman with skill grade 'B' could have applied for the NOC. Having said that, the other stipulation for Category I that airmen with seven years of service



can only apply to Grade A and Grade B Gazetted posts through UPSC and State PSCs still holds good. In fact, a co-ordinate Bench of this Court, of which one of us (V. Kameswar Rao, J.) was a part of, had in the case of ***Sgt. Muralidhar Pakal (supra)*** held that though the condition relating to skill grade 'A' has been struck down by the Court, the remaining procedural safeguards under AFO 33/2017 continue to bind airmen.

36. Suffice it to state, the petitioner had applied for the post in the bank through IBPS and not through UPSC or State PSCs. As such, the request for NOC could not have been considered. The observations of the Adjutant and the Commanding Officer that the petitioner is ineligible are justified.

37. Now the question is whether this stipulation confining the description of posts to which an airmen with seven years of service can apply to Grade A/I and Grade B/II Gazetted posts, that too only through UPSC and State PSCs is discriminatory.

38. We may at this stage refer to the judgments of this Court in the cases of ***Nakhat Singh (supra)*** and ***Cpl. Manoranjan Kumar (supra)*** wherein it was held that the provisions of AFO 33/2017 are mandatory in nature. However, it is necessary to note that in the above two judgments, Clause 6 of AFO 33/2017 was not challenged. As such, we shall examine the plea made by Mr. Chhibber independently as to whether the stipulation that the posts for which airmen can apply necessarily has to be Grade A/I and Grade B/II Gazetted posts, through UPSC and State PSCs only, is arbitrary and discriminatory.

39. Though Mr. Chhibber has submitted that Scale I posts of Public Sector Banks, which includes the post to which the petitioner has been selected, are equivalent to Group A posts in the Government of India, nothing has been brought before us to show that they are Gazetted posts. In fact, gazetted posts



are those posts, the appointments to which are notified by the government in the official Gazette. Such posts are confined to the Central Government or State Government machinery, and it is possibly for this reason, Clause 6 contemplates appointment to Grade A and Grade B **Gazetted** posts only through UPSC and State PSCs.

40. In any case, the said Clause excludes any post which is being filled through IBPS, as is clear from the description of the post, reproduced above which reads “*Group A/I and Group B/II Gazetted posts through UPSC and State Public Service Commission only*”. It cannot be disputed that IBPS is neither UPSC nor a State PSC. It is an autonomous body constituted for selection/appointments *inter alia* in the banking sector.

41. It follows that there is a conscious omission on the part of the rule making authority not to include IBPS in Clause 6. This we say so, as Clause 10 refers to IBPS. However, as contended by Mr. Gogna, it is only relatable to Category II of eligibility criteria, as said category contemplates NOC can be taken for appointment to any civil post in Government/PSU/private sector prior to the expiry of the initial regular engagement.

42. The reasoning given by the respondents in support of their submission can be seen from paragraph 2 of the “**PARAWISE COMMENTS**” of its counter-affidavit, which reads as under:

“That the contents of paragraph 2 save as except what are matters of record are admitted and the rest are denied. It is submitted that the AFO 33/2017 deals with grant of NOC and discharge from service to join the civil post. The terms and conditions are clearly spelt out in the instant AFO. That, prior to AFO 33/2017 airmen were permitted to apply only for Group A posts as per AFO 04/2012, to provide adequate opportunities, avenues for civil employment to the air warriors Group A/I and



Group B/II Gazetted posts through UPSC as well as State Public Service Commission's (SPSCs), were made applicable in AFO 33/2017. It is submitted that UPSC & SPSCs cover majority of recruitments in the government sector both at the Central as well as the State level and is considered to be adequate to address the aspirations of the airmen. However, the petitioner is not eligible for discharge from service, as the post he got selected for i.e. Rajbhasha Adhikari does not fall in the category of Group A/I and group B/II Gazetted posts through UPSC and SPSCs in terms of AFO 33/2017."

43. Additionally, for further clarification of the rationale behind the description, paragraphs 7, 8, 9, 11, 12, 13 and 14 of the counter affidavit filed by the respondent are reproduced as under:

"7. It is submitted that airmen are enrolled in the Indian Air Force for an initial term of regular engagement (RE) of 20 years. That at the time of applying for employment in Indian Air Force a voluntarily submit an undertaking to serve for an initial regular engagement (RE) period of 20 years in terms of AFI 12/S/48 (as amended from time to time). That, at the time of the enrolment form [IAFF (P)-5] filled at the time of enrolment, the individual is required to give express consent to serve the IAF until the discharge in accordance with the conditions of service [Para 18 of IAFF(P)-5]. That the statutory form of enrolment as a combatant member is in Form-AI of the first Schedule. Further, in Part-II of said form, it is specifically provided that individual is required to serve for a period not less than 20 years thereby incorporating an obligation to serve for a specific period. That, discharge of airmen from the Air Force, prior to the completion of their regular engagement (RE) affects the manning level in the respective trades of IAF and has an adverse impact on the operational preparedness of the Air Force on the whole.

8. That IAF is a technology oriented force deals with sophisticated and specialized equipments, and hence requires well trained and experienced manpower to handle such



equipments. It is submitted that, it is incorrect to state that the Petitioner has no further progression in the Indian Air Force. That each airman is trained for specific role and his continuance in the service is essential, not only to make good the expenditure incurred on him by the nation for his training but also to man all the required posts at all levels (from worker to supervisor level) and to achieve desired operational preparedness of the IAF at all times.

9. It is submitted that airmen are inducted in the IAF with basic educational qualification criteria of 10+2/ Intermediate or equivalent. That after induction, they are subjected to training in phases/ modules spanning 2 to 3 years, before they are deployed independently on operational duties. The training consists of 24 weeks basic Military Training followed by 64 weeks of specific trade training, subsequent to which they are posted to field units

to undergo on-job training and gain requisite skills. It is thus evident that IAF invests heavily on its workforce in moulding the airmen to meet the operational needs of IAF in specific and the security requirements of the Nation in general.

11. It is submitted that, in order to regulate pre-mature discharge of the airmen from IAF at the same time balancing their personal aspirations for better career prospects/ progression in civil life or on compassionate grounds, AFOs are issued by the Chief of the Air Staff from time to time as per the prevailing scenario. That the terms "...better career progression..."y "...better career prospects..." stated in the policy is to ensure that the Airmen who leave the force have an edge over other civilians and not to ensure that they have a better career prospect outside, than in the Air Force.

12. It is submitted that, Airmen join the Air Force at a fairly younger age and are given opportunities to study while working, primarily so that they can provide better service to the Air Force. That, these opportunities are provided as an incentive for better prospects/ progression in the Indian Air Force and thereby become a greater service to the Nation and not for better



prospects/ progression in their civil life, as contended by the Petitioner in the petition in hand.

13. It is submitted that, the policies of the Air Force have been formulated and given effect from time to time. It is further submitted that, for the purpose of premature retirement, airmen have been broadly classified, on the basis of the years of service rendered with least number of restrictions being imposed on such personnel who have shown greater loyalty and dedication and have served for a longer period of time. That the need for such restriction is to maintain high manning levels and to ensure that the attrition levels are maintained at a manageable rate.

14. It is submitted that, HR policies are never constant or oriented only for achieving a single objective, they are formulated keeping in mind a bundle of objectives. The main and broad objective of the HR policy in respect of premature release is contained in the policy and is set out in the "Introduction" of the policies (annexed as Annexure P-1 and P-2 of the present petition). That the gist of the same is that the policy is oriented and framed in a manner to ensure the maximum benefit to the services, but also provides for premature exit from the service. That, such premature exit is not a right, but a privilege granted on certain terms and conditions."

44. Having noted the stand of the respondents and the eligibility criteria prescribed by the Air Force, we are of the view that the distinction made by the respondents by classifying the personnel into two different categories is primarily based on the number of years of service put in by airmen.

45. Those airmen who have joined the Air Force after completing 10+2 have been imparted training and are granted an opportunity to acquire higher qualification while working, so that they can provide better service to the Air Force. Unlike the airmen in Category II, who are in the twilight of their careers, having one year left to complete their service of 20 years, the ones in Category I are entering the prime of their military careers, and still have a



large period of their service left. It is also considering this distinction that those in Category II are permitted to apply to any posts in Governments/PSUs or even in the private sector, while those in Category I can only apply to Group A/I and Group B/II Gazetted posts through the UPSC and State PSCs only, that is, restricting their movement within the Government, that too on Group A/Group B Gazetted posts, where their contribution shall be more effective/purposeful. The Air Force is justified in imposing such restrictive conditions for discharge of its personnel.

46. At this juncture, we may refer to the judgment of a Co-ordinate Bench of this Court in ***Cpl. Mukesh Singh Rajpoot (supra)*** where the issue of non-inclusion of the post filled by IBPS to Category I personnel has been specifically considered and the challenge to non-grant of NOC under AFO No. 33/2017 on this ground has been rejected. Relevant part of the judgment reads as under:

“16. IBPS is an Autonomous Body set up by Reserve Bank of India (RBI), Central Financial Institutions and Public Sector Banks and does not in any way equate with UPSC/SPSC.

17. We are conscious that in Brijlal Kumar Vs. Union of India 2020 SCC OnLine Del 1477 pronounced by us recently, we have approved of judgment dated 11th December, 2019 in W.P.(C) No. 5642/2019 titled Mohd. Israr Khan Vs. Union of India and Rakesh Kumar Vs. Union of India MANU/DE/0121/2020, all in the context of claim of pro rata pension and holding entitlement of pro rata pension to be also available to those employed in PSUs and Banks. However merely because it has been so held in the context of pro rata pension would not imply that the requirement in the context of discharge from IAF, of securing employment only through UPSC/SPSC also has to be ignored. The considerations for the two are entirely different.



18. As far as the plea in the petition, of the AFOs in force at the time of recruitment of the petitioner and till AFO No.33/2017 not containing any such condition of recruitment to be through UPSC/SPSC only, is concerned, it is not even further pleaded that the petitioner, throughout his employment was to be governed by the AFO in force at the time of recruitment or that the respondents IAF were not entitled to, from time to time change the policy. In the absence of any plea, we are of the view that the respondents IAF, depending upon the exigencies and requirements from time to time, in a matter as that of letting the Airmen go even prior to their initial regular engagement, is entitled to change the policy.

19. We may also notice that even though there is no specific challenge by the petitioner as aforesaid, to the requirement of recruitment through UPSC/SPSC only but the respondents IAF in their counter affidavit have pleaded the rationale therefor and with which, we tend to agree. The respondents IAF having spent considerable amounts on training of Airmen, as pleaded, is fully entitled to restrict discharge before the expiry of their initial regular engagement only if recruited through UPSC/SPSC. It is also not as if while notifying AFO No.33/2017 the authorities concerned were not cautious of the said aspect. As aforesaid while the said condition exists for discharge after 7 years of service, it does not exist for seeking discharge during one year of residual service.”

47. We are of the view that as discussed above, there is a substantial difference between the two categories, and the classification of personnel made in the AFO based on the eligibility condition are reasonable and cannot be said to be in violation of Article 14 of the Constitution of India.

48. Before parting, we must state that during the course of hearing, we have been informed by Mr. Chhibber that the impugned AFO 33/2017 has been superseded by a fresh AFO in the year 2023, wherein the Air Force has confined the grant of NOC only to those airmen who are left with one year of service. Even for this reason, we find no reason to strike down the impugned



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AFO 33/2017 as unconstitutional.

49. In view of the foregoing discussion, there is no merit in the present petition. The same is dismissed, along with the pending application.

50. As a corollary to our decision, the interim direction given to the respondent no.4/Canara Bank to keep one post of *Rajbhasha Adhikari* (Scale-I) vacant, subject to the outcome of this petition, stands vacated.

V. KAMESWAR RAO, J

MANMEET PRITAM SINGH ARORA, J

JANUARY 12, 2026

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